

# SENATE, No. 2346

Senate, September 26, 2007

The committee on [Ways and Means](#), to whom was committed the Senate Bill relative to oceans ([Senate, No. 2281](#)), report recommending that the same ought to pass with an amendment, substituting a new draft with the same title (Senate, No. 2346).

[Steven C. Panagiotakos](#),

For the committee.

[Version with line numbers](#) 

## The Commonwealth of Massachusetts



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**In the Year Two Thousand and Seven.**

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### AN ACT RELATIVE TO OCEANS

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The general court finds and declares that:

- (a) Coastal population growth and rapid advances in technology and commerce have led to a significant increase in the demands on the commonwealth's ocean resources;

(b) Ocean resources management in the commonwealth has historically been focused on particular resources or activities, and public decisions about whether to allow certain activities in the commonwealth's ocean waters have occurred in a reactive and fragmented manner;

(c) The commonwealth's ocean management policy must be adjusted to account for evolving needs and values, emerging technologies and evolving understanding and knowledge of ocean ecosystems in order to meet the commonwealth's public trust responsibilities;

(d) The commonwealth recognizes that commercial and recreational fisheries are an integral and historic part of our culture and contribute substantial economic benefits to our citizens and that regulation and management of these fisheries shall be, exclusively, by the Massachusetts division of marine fisheries and the relevant federal and interstate management agencies and citizens;

(e) It shall be the policy of the commonwealth that stewardship of the commonwealth's ocean waters shall be carried out through an ocean management plan that protects, maintains and restores the abundance and diversity of native species and habitats and the health and productivity of coastal and marine ecosystems in order to fulfill the ecological, economic, educational, social, cultural, nutritional, recreational and other requirements of present and future generations in a sustainable manner; and

(f) The Massachusetts ocean management task force has studied and made recommendations, based upon a public participation process, for improved stewardship of the commonwealth's ocean resources.

SECTION 2. Chapter 10 of the General Laws, as so appearing, is hereby amended by inserting after section 35EE the following new section:-

Section 35FF. There shall be established and set up on the books of the commonwealth a separate fund to be administered by the secretary, as trustee, in consultation with the department of environmental protection, to be known as the Ocean Resources and Waterways Trust Fund. There shall be credited to such fund: any applicable compensation or mitigation for ocean development to be used for the purposes of ocean resource enhancement or restoration, with compensation or mitigation for public navigational impacts to be dedicated to public navigational improvements; any income derived from the investment of amounts credited to the fund; and any appropriation grant explicitly made to the fund. The priority for use of funds credited to the trust for compensation or mitigation for ocean development projects shall be the restoration or enhancement of marine habitat and resources related to the impacts of any specific project; provided, that any funds for the enhancement of fisheries resources shall be directed to the Marine Fisheries Trust Fund to conduct the needed fisheries restoration and management programs, and any other amounts credited to the fund shall be used, without further appropriation, solely for the purposes of environmental enhancement, restoration and coordination of ocean resources by the secretary pursuant to this section, including the cost of employees or consultant services necessary to implement these

requirements. Money remaining in the fund at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

SECTION 3. Said chapter 10 of the General Laws, as so appearing, is hereby amended by inserting after section 35FF the following new section:-

Section 35GG. There shall be established and set up on the books of the commonwealth a separate fund to be administered by the director of the division of marine fisheries, as trustee, to be known as the Marine Fisheries Trust Fund. There shall be credited to such fund: any applicable compensation or mitigation related to fisheries management to be used for the purposes of preserving and enhancing the fishing industry; any income derived from the investment of amounts credited to the fund; and any appropriation, grant explicitly made to the fund. Funds credited to the trust for compensation or mitigation for ocean development projects shall be expended without further appropriation for the restoration or enhancement of marine fisheries. Money remaining in the fund at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

SECTION 4. Section 4A of chapter 21A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “benefits” in line 15 the words: - of section 4C and.

SECTION 5. Said chapter 21A is hereby further amended by inserting after section 4B the following section: -

Section 4C. (a) The ocean waters and ocean-based development of the commonwealth, within the ocean management planning area described in this section, shall be under the oversight, coordination and planning authority of the secretary of energy and environmental affairs, in accordance with the public trust doctrine, as established by common law and codified in the Colonial Ordinances of 1641-47 and subsequent relevant statutes and cases, and in regular consultation with the members of the ocean management advisory commission and all other relevant agencies, on behalf of the people of the commonwealth pursuant to the policy, planning and coordination authority vested in the secretary by sections 1 through 6 of this chapter. Such oversight, coordination and planning authority shall be exercised through the promulgation of an ocean management plan, which shall be a document including maps, illustrations and other media, setting forth, among other things, the commonwealth's goals, policies and standards to ensure effective state stewardship of the ocean waters held in trust for the benefit of the public. This stewardship shall be carried out in accordance with sound management practices that: take into account the existing natural, social, cultural, historic and economic characteristics of the planning area; protect the public trust; value biodiversity and ecosystem health; protect special, sensitive or unique estuarine and marine life and habitats; address climate change and sea-level rise; respect the interdependence of ecosystems; coordinate uses that cross international, federal, state and local jurisdictions; take into account the importance of the waters of the commonwealth to the vast majority of its citizens who derive livelihoods and recreational benefits from fishing in the ocean; foster sustainable uses that capitalize on economic opportunity without significant detriment to the ecology or natural beauty of the ocean; preserve and

enhance public access; support the needed infrastructure for the economy and quality of life for the citizens of the commonwealth; use the best available information and expertise; encourage public participation in decision-making; and adapt to our evolving knowledge and understanding of the ocean environment.

Nothing in this section shall be construed to alter the jurisdictional authority of the division of marine fisheries.

Ocean-based development, for the purposes of this section, shall be the creation, development or installation of permanent or temporary structures and the mining, removal or other exploitation of marine resources not currently subject to chapter 130 which shall remain in full force and effect.

(b) The geographic area subject to an ocean management plan shall include any waters and associated submerged lands of the ocean, including the seabed and subsoil, lying between the line designated as the “Nearshore Boundary of the Ocean Management Planning Area” depicted on a plan dated January 31, 2006, prepared by the office of coastal zone management and kept on file at the executive office of energy and environmental affairs, and the seaward boundary of the commonwealth. An ocean management plan may also address activities in adjacent seaward waters and, to the maximum extent consistent with federal law, shall apply to activities occurring in adjacent federal waters that are functionally connected or otherwise related to the management of resources within the ocean management planning area. An ocean management plan may take into account the different regional characteristics of the commonwealth's waters.

(c)(1) There shall be an ocean management advisory commission to assist the secretary in the development of an ocean management plan. This commission shall consist of 16 members: 2 members of the senate, 1 to be appointed by the president of the senate and 1 appointed by the minority leader of the senate; 2 members of the house of representatives, 1 to be appointed by the speaker of the house of representatives and 1 appointed by the minority leader of the house of representatives; the directors of the office of coastal zone management and the division of marine fisheries, or their designees; and the following representatives, to be appointed by the governor: 1 representative of a commercial fishing organization; 1 representative of a recreational fishing organization; 2 representatives of environmental organizations; 1 representative of a non-fishing ocean-dependent industry; 3 mayors or members of a city council or board of selectmen of coastal municipalities; and 2 directors of regional planning agencies. As the term of a member expires, his successor shall be appointed for term of 3 years, except that, initially, 6 members shall be appointed for terms of 2 years and 3 members shall be appointed for terms of 1 year. The governor may also fill any vacancy in an unexpired term. The members of the ocean management commission shall be selected with due regard to coastal geographic distribution.

The commission shall annually elect a chairman and clerk, shall keep accurate records of its meeting and hearing and shall meet at least quarterly and at the call of the chairman. A quorum to conduct business shall consist of 8 members. The commission shall hold public meetings relative to matters within the jurisdiction of the ocean management plan and shall make recommendations to the secretary for the proper management and development of the plan. The secretary or his designee shall attend all meetings and

hearings of the commission. The secretary shall ensure that the ocean management plan is consistent with the recommendations of the commission.

The Office of Coastal Zone Management and Division of Marine Fisheries shall provide technical staff support to the commission.

(2) There shall be an ocean science advisory council to assist the secretary in developing a baseline assessment, subject to clause (1) of the subsection (e), and any other scientific information necessary for the development of an ocean management plan. This council shall consist of 9 members, to be appointed by the secretary: 3 scientists from academic institutions, at least 1 of which shall be from the School of Marine Science and Technology at the University of Massachusetts at Dartmouth; 3 scientists from private nonprofit organizations, including 1 scientist designated by the Massachusetts Fishermen's Partnership; and 3 scientists from government agencies with demonstrated technical training and experience in the fields of marine ecology, geology, biology, ichthyology, mammalogy, oceanography or other related ocean science disciplines, at least 1 of which shall be from the Division of Marine Fisheries. The secretary shall serve as coordinator of the council. The council shall meet at such times as the secretary shall set, but no less than once every 3 months to assist the secretary in compiling any scientific information necessary for the development of an ocean management plan.

(d) Upon adoption of an ocean management plan, no structure, use or activities with the exception of commercial and recreational fishing pursuant to chapter 130, that could significantly alter the ocean resources of the geographic area established in accordance with this section may occur, except as allowed in subsections (j) and (k), and only if that

structure, use or activity conforms to all applicable provisions of the ocean management plan. All offices and departments of the executive office of energy and environmental affairs and all other agencies, departments, divisions, units, commissions, boards and authorities of the commonwealth shall enforce laws and regulations within their jurisdiction, conduct regulatory reviews, administer programs, disburse funds, perform or supervise construction activities and otherwise conduct their activities in a manner that ensures conformance with the applicable provisions of an ocean management plan and this section.

(e) Development, implementation and enforcement of an ocean management plan as coordinated by the secretary, in regular consultation with the ocean management advisory commission, shall include, but not be limited to, the following elements:

(1) Setting a baseline assessment of the commonwealth's ocean resources and resource use, in consultation with the ocean science advisory council, that incorporates the best available engineering applications and scientific understanding of marine and ocean resources, including the identification of special, sensitive or unique estuarine and marine life and habitats, through research, mapping, monitoring, public and agency input and other relevant natural, infrastructure, social, cultural, historic and economic planning information that will serve as the basis for evaluating alternatives and choosing courses of action;

(2) Establishing an outreach and participation program which shall include: early and continuing interaction with the public, the business sector, other interested groups and local, state, regional and federal officials; an opportunity for notice of the contents, public

comments and public meetings at the local and regional levels, in consultation with the Massachusetts association of regional planning agencies, on a proposed ocean management plan, as described in subsection (g); and regular consultation with the ocean management advisory commission, the ocean science advisory council, the department of environmental protection, the department of conservation and recreation, the department of public utilities, the energy facilities siting board, the executive offices of economic development and public safety, the highway department, the division of energy resources, the port authorities, the department of agricultural resources and other state and federal agencies having jurisdiction over resources or activities within or affecting the ocean management planning area in order to achieve maximum feasible compatibility with the plans, programs or projects for which such departments, divisions, boards and other agencies are responsible. A summary of this participation program shall be included in an ocean management plan;

(3) Identifying management measures, including but not limited to, setting performance standards, mitigation requirements and use limitations, as may be applicable to specific geographic areas, to be developed in a manner consistent with applicable state statutes and regulations that control or otherwise affect development or other ocean use in the planning area. These management measures shall be compatible, to the maximum extent feasible, with all applicable plans, programs and projects for which the respective state agencies are responsible. The division of marine fisheries, pursuant to chapter 130 and any other applicable general or special law, shall have sole responsibility for developing and implementing any fisheries management plans or fisheries regulations that are determined to be necessary by the division based on the best available scientific

information. Management of marine fisheries shall comply with all applicable rules and regulations of the division of marine fisheries and federal or interstate fishery management plans, issued pursuant to chapter 130 or any other applicable general or special law, and shall be integrated, to the maximum extent practicable, with an ocean management plan. The integration of fisheries management plans with an ocean management plan shall be designed to enhance the ability of the division of marine fisheries to fulfill its responsibilities and to avoid any alterations of the jurisdictional authority of the division of marine fisheries. Management of waterfowl hunting shall comply with the rules and regulations of the division of fisheries and wildlife, issued pursuant to chapter 131 or any other general or special law, and shall be integrated, to the maximum extent practicable, with an ocean management plan. Nothing contained in this section shall prohibit the transiting of commercial fishing and recreational boats in Massachusetts ocean waters;

(4) Implementing a specific strategy to ensure effective application of the identified management measures within the planning area in question. Implementation arrangements may include, as appropriate, memoranda of understanding or other instruments of agreement to ensure coordination between the secretary and other relevant state agencies;

(5) Establishing a time period during which an ocean management plan is to remain effective and a proposed date, not to exceed 5 years from the date of plan adoption, on which re-evaluation of the plan will commence for purposes of renewal and amendment. The re-evaluation process shall include, but not be limited to, an opportunity for public

comments, informational meetings and public meetings, as described in subsection (g).

An ocean management plan shall remain in effect until a renewed or amended ocean management plan is adopted; and

(6) Creating other such elements as may be considered appropriate by the secretary of energy and environmental affairs to serve the purposes of this section.

(f) Within six months of the passage of this act, the commission, in consultation with regional planning agencies, shall appoint working groups comprised of members of the general public, the business sector, local, state, regional, and federal officials and other interested groups for each of the following geographic areas to advise the commission on ocean protection and management goals and objectives and strategies. The geographic areas include the coastal region north of Boston that is not considered an Ocean Sanctuary; the North Shore Ocean Sanctuary, Essex Ocean Sanctuary, Cape Cod Bay Ocean Sanctuary, and Cape Cod Ocean Sanctuary, as described in the Ocean Sanctuaries Act (Section 13, Chapter 132A); as well as the Buzzards Bay Ocean Sanctuary and Nantucket Sound Ocean Sanctuary. The Buzzards Bay Ocean Sanctuary shall be comprised of all the waters of Buzzards Bay bordered by the mainland of the commonwealth on the west, Cape Cod and the Elizabeth Islands on the east and the Massachusetts and Rhode Island ocean boundary on the south. The Nantucket Sound Ocean Sanctuary shall be comprised of all the state waters of Nantucket Sound and Vineyard Sound, bordered on the west by the Elizabeth Islands, on the North by Cape Cod, on the east by Monomoy Island, and on the south by Nantucket Island and Martha's Vineyard Island.

(g) The secretary shall give notice of, and provide interested parties with the opportunity to present data, views or arguments for a period of at least 60 days in regard to, a proposed ocean management plan or any proposed amendment thereto or renewal thereof in writing, in accordance with section 3 of chapter 30A, and shall make such proposed amendments or plans available for a public review and comment period through notice in the Environmental Monitor and at least 1 newspaper of general circulation in each of the 5 administrative regions defined in the Massachusetts coastal zone management plan, commonly known as the North Shore, South Shore, South Coast, metropolitan Boston and Cape Cod and the Islands regions. For a proposed ocean management plan, the secretary shall conduct at least 1 public meeting, in consultation with the Massachusetts association of regional planning agencies, in each of the 5 administrative regions defined in the Massachusetts coastal zone management plan. For a proposed amendment to an ocean management plan, the secretary shall conduct at least 1 public meeting, in consultation with the Massachusetts association of regional planning agencies, in each of the administrative regions that would be directly affected by the proposed amendment. At the conclusion of such public process, and after consideration of public comments received during the public comment period, the secretary may adopt an ocean management plan or any amendments thereto, and notice thereof shall be published in the next available edition of the Environmental Monitor and the Massachusetts Register. The secretary shall file a copy of the ocean management plan or any amendments thereto with the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on the environment, natural resources and

agriculture at least 90 days before the ocean management plan or any amendments thereto are to take effect.

(h) The secretary shall reconsider the decision to adopt an ocean management plan, any portion thereof or any amendment thereto only if information which has been overlooked or misapprehended requiring such reconsideration is presented by the planning representative of a local government, any state agency or 10 or more citizens of the commonwealth in a written petition submitted within 21 days of the secretary's decision. The secretary's decision shall be final 21 days after it is issued should there be no requests for reconsideration timely filed. A petition for reconsideration shall include a clear and concise statement of the specific objections to the secretary's decision and the relief sought, including any specific changes that are proposed for consideration. The secretary shall respond in writing to such petition within 21 days of the close of the petition period and shall set forth the basis for such response including the reasons for any modification of the decision. Decisions on requests for reconsideration shall be final upon a date specified by the secretary in the response to the request for reconsideration, and in any case, not longer than 21 days after the response. After the secretary's decision becomes final, notice thereof shall be published in the next available edition of the Environmental Monitor and the Massachusetts Register.

(i) Judicial review of the secretary's approval of an ocean management plan or any amendment thereto shall be as provided in section 7 of chapter 30A. Such action shall be commenced within 30 days of the publication in the Massachusetts Register of notice of the ocean plan or amendment, or, if a request for reconsideration is filed, within 30 days

of publication of notice of the secretary's decision on the request for reconsideration. No such action may be commenced unless the issue complained of was raised by that person in writing during the public comment period on the ocean plan or amendment. An issue may be raised for judicial review upon a showing that it is material and that it was not reasonably possible with due diligence to have raised it during the public comment period.

(j) Notwithstanding any other provisions of this section, the following activities are prohibited between the mean low water mark and the seaward boundary of the commonwealth:

(1) constructing or operating offshore or floating electric generating stations in areas designated as an ocean sanctuary by section 13 of chapter 132A, except:

(i) on an emergency and temporary basis for the supply of energy when such electric generating station is otherwise consistent with an ocean management plan; or

(ii) for small-scale renewable energy systems, as defined by the ocean management plan, in areas other than the Cape Cod ocean sanctuary, established by section 13 of chapter 132A, when the small-scale renewable energy system is otherwise consistent with an ocean management plan;

(A.) The ocean management plan shall include standards and criteria for siting small scale offshore renewable energy facilities, including but not limited to: compatibility with existing uses, appropriateness of technology and scale, environmental protection, public safety and community benefit.

(B.) In regions where regional planning agencies are provided regulatory authority, those regional planning agencies may review all small scale offshore renewable energy projects as developments of regional impact based on the standards and criteria as set forth in their regional policy plans. Any person aggrieved by a decision of a regional planning agency relating to an offshore renewable energy project may appeal the decision to the Energy Facilities Siting Board, hereinafter referred to as the board. The board shall conduct an adjudicatory proceeding as defined in chapter 30A of the general laws. The board shall make findings as to whether the offshore renewable energy project complies with the standards and criteria as set forth in the ocean management plan. However, the decision of the regional planning agency shall not be disturbed unless the energy facilities siting board finds on the record that the decision of the regional planning agency was arbitrary or capricious. The board's decision shall be subject to judicial review pursuant to section five of chapter 25 of the general laws.

(2) dumping or discharging commercial, municipal, domestic or industrial wastes in areas designated as an ocean sanctuary by section 13 of chapter 132A, except as may be allowed pursuant to sections 16 and 16A to 16F, inclusive, of chapter 132A and their implementing regulations, as may be amended, and except for the discharge of bait and fish offal customarily associated with fishing;

(3) incinerating solid waste material or refuse on or in vessels moored or afloat;

(4) extracting stone, sand, gravel or other minerals, gases or oils from the seabed or subsoil; except for dredging for maintenance or other navigational purposes, including but not limited to slips, moorings and maintenance or expansion of boat access, outside of

the geographic area described in subsection (b); and except for dredging for maintenance or other navigational purposes within the geographic area described in subsection (b), shore protection, beach restoration or for facilities and activities undertaken or required by a public agency for the purposes of decontamination, response actions, capping or disposal of polluted aquatic sediments, if consistent with any applicable provisions of an ocean management plan;

(5) building or operating commercial advertising in areas designated as an ocean sanctuary by section 13 of chapter 132A; and

(6) building or long-term mooring of a structure on the seabed or subsoil in the area designated as the Cape Cod ocean sanctuary by section 13 of chapter 132A, except as allowed in clauses (1) and (4) to (7), inclusive, of subsection (k).

(k) In all areas within the geographic area described in subsection (b), the following activities are allowed, to the extent not prohibited by subsection (j), provided that such projects have met all applicable requirements of other local, state and federal laws and regulations and are consistent with an applicable ocean management plan:

(1) beach nourishment, channel and shore protection structures and dredging for maintenance and navigational purposes;

(2) the operation, maintenance, repair or construction of infrastructure facilities used in the transmission or distribution of electricity, natural gas, water or telecommunications

services, including pipelines, cables and conduits, except in the area designated as the Cape Cod ocean sanctuary by section 13 of chapter 132A;

(3) industrial liquid coolant discharge and intake systems, except in the area designated as the Cape Cod ocean sanctuary by section 13 of chapter 132A;

(4) facilities for aquaculture;

(5) moorings, floats and rafts held by bottom anchor for the purpose of vessel docking or mooring, and ramps attached thereto;

(6) docks, piers, wharves or other filled or pile-supported structures contiguous with the existing land mass;

(7) environmental restoration or mitigation activities required by certificate of the secretary of energy and environmental affairs;

(8) dumping or discharging commercial, municipal, domestic or industrial wastes, in areas not designated as an ocean sanctuary by section 13 of chapter 132A; and

(9) temporary scientific and educational facilities.

(1)(1) In all areas within the geographic area described in subsection (b), commercial and recreational fishing are allowable, subject to the exclusive jurisdiction of the division of marine fisheries. Any component of an ocean management plan which regulates commercial or recreational fishing shall be developed, promulgated and enforced by the division of marine fisheries pursuant to its authority under chapter 130.

(2) Any component of an ocean management plan which does not have as its primary purpose the regulation of commercial or recreational fishing but which has an impact on such fishing shall minimize negative economic impacts on commercial and recreational fishing. Prior to inclusion in an ocean management plan, any such component with such a reasonably foreseeable impact shall be referred to the division of marine fisheries, which shall respond to the secretary, pursuant to paragraph (3), in a timely and efficient manner.

(3) The director of the division of marine fisheries shall evaluate any component referred to him under paragraph (2) for its impact on commercial and recreational fishing and, if possible, develop and recommend to the secretary any suggestions or alternatives to mitigate or eliminate any adverse impacts. The response of the director shall be taken into consideration by the secretary and the ocean management advisory commission in determining whether the component shall be included in the ocean management plan. If the secretary does not include a suggestion or recommended alternative, he shall certify in writing the reasons therefore and append this certification to the ocean management

plan. If the division does not make a timely response to the secretary, within 30 days, then that failure to timely respond shall be considered a response by the director that the referred component poses no adverse negative economic impact on commercial and recreational fishing.

(4) The director of division of marine fisheries, subject to the approval of the marine fisheries advisory commission, shall have sole authority for the opening and closing of areas within the geographic area described in subsection (b) to the taking of any and all types of fish, pursuant to section 17A of chapter 130. Nothing in this section shall limit the authority of the director of the division of marine fisheries under section 17 of chapter 130 or any other provision thereto.

(m) Projects that have filed a chapter 91 license application and received a determination of completeness from the department of environmental protection or, if the project is subject to review pursuant to section 61 of chapter 30, has received a certificate of adequacy regarding a draft environmental impact report from the secretary, shall be governed by the ocean management plan in effect at the time of filing.

(n)The secretary may promulgate such regulations to implement, administer and enforce this section and may interpret this section and any regulations adopted hereunder consistent with his power to enforce the laws of the commonwealth.

SECTION 6. Section 12A of chapter 132A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following sentence:- This section and section 12C, section 14, section 15, section 16 and section 18 shall cease to have any

effect upon the adoption of an ocean management plan pursuant to section 4C of chapter 21A. Before that time, in the case of any differences among the requirements of section 15 and 16 of chapter 132A and paragraphs (j) and (k) of section 4C of chapter 21A, the provisions of sections 15 and 16 of chapter 132A shall control.

SECTION 7. Section 12B of said chapter 132A, as so appearing, is hereby amended by striking out, in line 3, the words “Act’, the Massachusetts Ocean Sanctuaries Act”.

SECTION 8. Said Section 12B of said chapter 132A , as so appearing, is further amended by striking out, in lines 13 and 14, the words “environmental management” and inserting in place thereof the following words: - environmental protection.

SECTION 9. Section 16A of said chapter 132A, as so appearing, is hereby amended, in lines 1 and 7 by striking out the words “section fifteen” and inserting in place thereof the following words: - clause (2) of paragraph (j) of section 4C of chapter 21A.

SECTION 10. Any project that, prior to the date of approval of the first ocean management plan as authorized by section 4C of chapter 21A of the General Laws, has:

1) filed a chapter 91 license application and received a written determination of completeness by the department of environmental protection; or 2) if the project is subject to review pursuant to section 61 of chapter 30 of the General Laws, received a certificate of adequacy regarding a final environmental impact report from the secretary; or 3) if the project is subject to jurisdiction of the energy facilities siting board, received both a final decision from the energy facilities siting board and a certificate of adequacy regarding a draft environmental impact report from the secretary, shall not be subject to

the requirements of said section 4C of said chapter 21A. Such projects not subject to said section 4C of said chapter 21A must comply with sections 12A to 16F, inclusive, and section 18 of chapter 132A of the General Laws, as they were in effect immediately prior enactment of said section 4C of said chapter 21A.

SECTION 10. The secretary of energy and environmental affairs shall report annually to the joint committee on environment, natural resources and agriculture identifying management measures established and the progress made in creating an ocean management plan pursuant to section 4C of chapter 21A of the General Laws, until such time as a plan is first adopted.

SECTION 11. The secretary of energy and environmental affairs shall develop, adopt and implement an ocean management plan within 24 months of the effective date of section 5. Upon adoption, an ocean management plan shall be formally incorporated into the Massachusetts coastal zone management program, as referenced in section 4A of chapter 21A of the General Laws.

SECTION 12. The secretary, in consultation with the department of environmental protection, the department of conservation and recreation and the division of marine fisheries, shall examine the establishment or renegotiation of fees, licenses, permits, rents, leases and the adjustment or development of other revenue sources for the purposes of funding ocean resource enhancement or restoration. Nothing in this section shall provide for a salt-water fishing license or any similar fees or user permits for salt water fishing. The secretary of energy and environmental affairs shall report the findings of this examination to the general court recommending the establishment of fees, licenses,

permits, rents, leases and the adjustment or development of other revenue sources, as authorized by subsection (n) of section 4C of chapter 21A of the General Laws, by submitting a report, including any proposed legislation, to the joint committee on environment, natural resources and agriculture and the house and senate committees on ways and means within 1 year of the effective date of section 5.